



**THE ATTORNEY GENERAL  
OF TEXAS**

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October 19, 1990

Ms. Ann Manning  
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P.O. Box 2547  
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Open Records Decision No. 571

Re: Whether the Open Records  
Act gives members of the  
public a right of access to a  
governmental body's computer  
to inspect records (RQ-2112)

Ms. Rosalinda Garcia  
Assistant County Attorney  
Harris County  
1011 Preston, Suite 634  
Houston, Texas 77002

Dear Ms. Manning and Ms. Garcia:

You each ask whether the Texas Open Records Act, article 6252-17a, V.T.C.S., requires a governmental body to provide a requestor access to its computer so that he may perform his own computer search for the records he wishes to inspect.

Ms. Garcia informs us that the Harris County Auditor has received two requests for information on outstanding cash bonds and for additional information necessary to verify the identity, address, and validity of claims relating to the cash bonds. Pursuant to section 112.007 of the Local Government Code, the county auditor keeps a general set of records showing "all the transactions of the county relating to accounts, contracts, indebtedness of the county, and county receipts and disbursements." Records relating to the receipt of cash bonds are found in the fee officers' receipt books and the officers' monthly reports submitted to the county auditor. Court orders on the disposition of the case and refund of the cash bond are found in the courts' files, not in the auditor's. In addition, information about cash bonds is maintained in the county auditor's computer, and printouts are produced from time to time, the last in November 1989.

The requestors could review the original files or the outdated computer printout, or they could have an up-to-date printout prepared by paying costs established under section 9(b) of the Open Records Act. They would, however, like

access to the county auditor's computer. The county clerk and district clerk have installed computer terminals that may be used by the general public to review certain public records,<sup>1</sup> but the county auditor has not done so. You state that the requestors would like one of the county auditor's employees to teach them how to use the computer to access the records they wish to see. You find no provision that requires the county auditor to make the computer available to the requestor.

Ms. Manning, as attorney for Lubbock Independent School District, informs us that a member of the public has asked to view its computer screen to inspect the American Express vendor payment history for the school year 1988-89. He also wants to obtain the computer printout of this information after he inspects it on the computer screen.

The district does not object to providing computer printouts of public information, subject to charges for copies at the rates established pursuant to section 9 of the Open Records Act. Its letter points out that the Open Records Act does not expressly address the question of a requestor's access to the governmental body's computer and argues that such access is not required. It states that some information on computer disks may be confidential, and if the requestor had full access to the computer, he could inspect confidential as well as non-confidential information. He might also lose information stored on computer disks or damage computer programs. In addition, the letter states that if members of the public had access to a governmental body's computer, its business would be unreasonably disrupted.

The question you ask was addressed in Attorney General Opinion JM-672 (1987), which answered it as follows:

The Open Records Act provides "for inspection or duplication, or both," of public information. V.T.C.S. art. 6252-17a, § 4. In Open Records Decision No. 152 (1977), this office indicated that the act gives the requesting party the option of taking notes from or paying for the duplication of public records

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1. We do not address any legal questions arising out of a public officer's voluntarily providing the public with computer access to certain records.

or of doing both.<sup>2</sup> The option of access to the records or information does not, however, include the right to access through direct computer searches. An important distinction exists between access to public information and access to computer banks which may contain both public and protected information.

Id. at 5-6 (emphasis in original; footnote added).

The opinion went on to quote the following language from Industrial Found. of the South v. Texas Indus. Accident Bd., 540 S.W.2d 668, 687 (Tex. 1976), cert. denied, 430 U.S. 931 (1977):

The means of access to information in government records may be controlled by the determination of what records must be disclosed, insofar as the procedure must adequately protect information deemed confidential from improper disclosure. If a direct computer tie-in could not be effectuated without giving the Foundation access to information to which it is not entitled, then of course the procedure would not be acceptable.

540 S.W.2d 668 at 687. A computer search by a member of the public also raises the possibility of access to confidential information.

We agree with Attorney General Opinion JM-672 that the Open Records Act does not give a member of the public a right to use a computer terminal to make his own computer search for public records. In addition to the reason Attorney General Opinion JM-672 emphasizes -- the risk that confidential records will be inspected -- another reason supports its conclusion.

The officer for public records has a duty to see "that the records are carefully protected from deterioration, alteration, mutilation, [or] loss." V.T.C.S. art. 6252-17a, § 5(a). Computerized records, including those that contain only public information, must be protected from alteration

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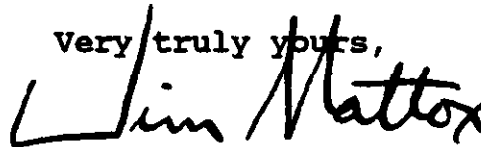
2. The records at issue in Open Records Decision No. 152 were transcripts of students' grades.

or loss. The computer that a governmental body uses to store its records is ordinarily programmed to enable qualified employees to enter, access, and remove information. Although "any person," id. § 4, is entitled to inspect public records or receive copies of them, a conclusion that "any person" has an implied right to use a governmental body's computer to inspect public records would be inconsistent with the express provision in section 5(a) for protecting their integrity. Accordingly, the Open Records Act accords members of the public no right to use a governmental body's computer to inspect records as an alternative to receiving a computer printout.

S U M M A R Y

The Open Records Act does not give members of the public a right to use a governmental body's computer to inspect records as an alternative to receiving a computer printout.

Very truly yours,



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